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FEDERAL COMMUNICATIONS COMMISSION  
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**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C.**

In the Matter of Reciprocal  
Compensation for CMRS Providers

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CC Docket Nos. 96-98 and 95-185  
WT Docket No. 97-207 /

**REPLY COMMENTS OF U S WEST COMMUNICATIONS, INC.**

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June 13, 2000

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As U S WEST demonstrated in its opening comments, the Commission has expressly defined the complementary roles that it and the states will play in administering the Act's reciprocal compensation scheme. In accordance with section 252 of the Act, the Commission gave the states the authority to set CMRS transport and termination prices, bounded by a presumption that, for most interconnecting carriers, symmetrical rates should apply. At the same time, the Commission created a specific procedure by which CMRS carriers could attempt to overcome the presumption of symmetry, by presenting states with cost studies justifying asymmetrical transport and termination prices. U S WEST's comments demonstrated that Sprint PCS had never tried to use this mechanism to present its arguments to the states before coming in to the Commission and asking for an overhaul of the existing rules.

None of the comments filed in support of Sprint PCS's petition offers a compelling reason why the Commission should abandon its carefully drawn scheme and intervene here. The comments confirm that only one non-paging CMRS carrier has even *attempted* to use the cost study mechanism designed by the Commission, and then in only one state. In the absence of cost studies, states are *required* by Commission rules to apply symmetrical rates -- and the states have

been following the Commission's directions precisely. The fact that states have not even had the chance to entertain the issue of whether non-paging CMRS carriers should receive asymmetrical rates is reason alone for the Commission not to intervene.

Western Wireless concedes that CMRS carriers have ignored the process created by the Commission for overcoming the presumption of symmetry and establishing that asymmetrical rates should apply. By its own account, no state with the exception of Hawaii has even been given the opportunity to determine whether the presumption of symmetry should be negated in the case of non-paging CMRS carriers.<sup>1</sup> Sprint PCS's assertion that states have "encountered some difficulty"<sup>2</sup> in applying the federal framework is ludicrous, since non-paging CMRS carriers have not submitted the cost studies that would allow the states to consider the question in the first place.<sup>3</sup> Likewise, CTIA's assertion that states have "ignore[d] such studies"<sup>4</sup> is simply incorrect.<sup>5</sup>

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<sup>1</sup> Western Wireless Comments at 4-5. As stated in U S WEST's comments in this proceeding, U S WEST was unaware at the time it filed its comments that *any* non-paging carrier had submitted a cost study in any state. Western Wireless provides no explanation for why the Hawaii Commission "declined to consider the merits of [its] submission."

<sup>2</sup> The Rural Telecommunications Group echoes Sprint's misconception. RTG Comments at 3.

<sup>3</sup> As a result, Cellular XL can only suggest that state commissions "*may* be ill-equipped to address the distinct issues relating to CMRS carriers' networks." Cellular XL Comments at 2 (emphasis added).

<sup>4</sup> CTIA Comments at 4.

<sup>5</sup> Similarly, there is no reason why the Commission should start giving states instructions about which of the incumbent's transport and termination prices to use if they ultimately reject a CMRS carrier's petition for asymmetrical rates. *Cf.* VoiceStream Wireless Comments at 4-6 (asking Commission to rule that CMRS carriers should receive tandem-office transport and termination prices rather than end-office prices); Western Wireless Comments at 7-8 (same). As the Commission acknowledged in the *Local Interconnection Order*, how comparable a particular

PCIA and others contend that the Commission should intervene because the states are misapplying the reciprocal compensation scheme by relying on comparisons between the functionalities of CMRS and wireline networks to determine which (symmetrical) rates should apply.<sup>6</sup> But in performing these network comparisons, the states are doing *precisely* what the Commission directed. *See Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, First Report and Order, 11 FCC Rcd 15499, 16042 ¶ 1090 (1996) (“*Local Interconnection Order*”) (directing states to “consider whether . . . wireless networks[] perform functions similar to those performed by an incumbent LEC’s” facilities). And as U S WEST demonstrated in its opening comments, there is a strong basis for comparing the two types of networks, because the networks are, in fact, functionally equivalent and similarly configured.

Several commenters suggest that the Commission should intervene on this question because two state PUCs have rejected arguments that *paging* carriers should recover the traffic-sensitive portion of their costs on reciprocal compensation.<sup>7</sup> But the Commission made abundantly clear in its *Local Interconnection Order* that paging carriers are subject to different rules than either non-paging CMRS carriers or wireline carriers, and that the latter two are subject to the *same* rules. *See Local Interconnection Order* at 16042, 43 ¶¶ 1089, 1092. Paging carriers are not subject to the presumption of symmetry, while non-paging CMRS and wireline carriers are. *See id.* Accordingly, state decisions applying the reciprocal compensation scheme

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CMRS network is to the specific incumbent wireline network in its service area is a factual question better left to investigation by the states at the appropriate time.

<sup>6</sup> *See* PCIA Comments at 4.

<sup>7</sup> *See, e.g.,* Western Wireless Comments at 4-5; PCIA Comments at 6.

to paging carriers simply are irrelevant to the question whether states -- when finally presented with non-paging CMRS carriers' cost studies -- will properly determine whether the presumption of symmetry that applies to non-paging CMRS carriers should be overcome.<sup>8</sup>

PCIA also argues that section 332 of the Act suggests that the Commission should intervene and establish "national standards" for the CMRS industry.<sup>9</sup> But PCIA presents nothing new here. The Commission *already* took section 332 into account in determining the complementary roles that it and the states are to play in administering the reciprocal compensation scheme to CMRS carriers. See *Local Interconnection Order* at 16006 ¶ 1025. In so doing, the Commission suggested that it *might* intervene and take back some of the responsibilities allocated to the states if it "determine[s] that the regulatory scheme established by sections 251 and 252 does not sufficiently address the problems encountered by CMRS providers." *Id.* But it is premature to argue that the regulatory scheme is insufficient, when the precise mechanism created by the Commission for carriers to challenge the presumption of symmetrical rates in reciprocal compensation -- the submission of cost studies to state PUCs -- has not even been invoked.

CTIA argues that the Commission should intervene because of "changed circumstances" since its adoption in August 1996 of the *Local Interconnection Order*.<sup>10</sup> In CTIA's view, the fact that the "substantially imbalanced" LEC-CMRS traffic in 1996 has become "more balanced" because of significant growth in CMRS traffic argues *in favor* of Commission intervention to

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<sup>8</sup> For these same reasons, Metrocall's comments, focusing entirely on issues surrounding reciprocal compensation for paging carriers, are irrelevant to the questions presented by Sprint PCS's petition and the Commission's public notice.

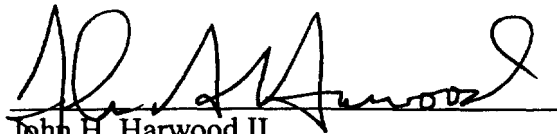
<sup>9</sup> PCIA Comments at 7-8.

<sup>10</sup> CTIA Comments at 8-9.

protect CMRS carriers. But CTIA's own facts prove the opposite point: the fact that CMRS carriers are thriving so well under the existing scheme suggests that no intervention is warranted at all.

In sum, no commenter provides even a mildly compelling reason why the Commission should intervene here, and there simply is none. The Commission should therefore reject Sprint PCS's attempt to circumvent the process set out by the Commission in the *Local Interconnection Order*.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "John H. Harwood II", written over a horizontal line.

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DATE: June 13, 2000

## CERTIFICATE OF SERVICE

I, John Meehan, do hereby certify that on this 13th day of June, 2000, I caused true and correct copies of the foregoing Reply Comments of U S WEST Communications, Inc., to be served by hand via third party messenger (where indicated), or by first class mail, postage prepaid, upon the following parties:

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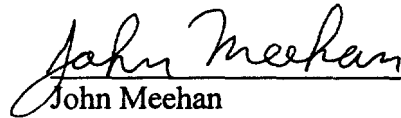
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